

By: Leach

H.B. No. 2385

A BILL TO BE ENTITLED

AN ACT

relating to benefits offered to purchasers by builders of new residences.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. CERTAIN ACTS BY BUILDERS OF NEW RESIDENCES PROHIBITED

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Builder" means a business entity or individual who, for a fixed price, commission, fee, wage, or other compensation:

(A) constructs or supervises or manages the construction of new residences; and

(B) sells or has the intent to sell the new residences immediately following completion of the construction.

(2) "Residence" means a single-family home, duplex, triplex, or quadruplex used or intended to be used as a dwelling.

(3) "Residential mortgage loan" has the meaning assigned by Section 180.002, Finance Code.

(4) "Residential mortgage loan company" has the meaning assigned by Section 156.002, Finance Code.

(5) "Title insurance company" has the meaning assigned by Section 2501.003, Insurance Code.

Sec. 113.002. BUILDER PROHIBITED FROM PROVIDING BENEFIT

1 CONTINGENT ON USE OF PREFERRED LENDER OR TITLE COMPANY. A builder
2 may not offer or provide any benefit to a person as consideration
3 for the person's agreement to use a residential mortgage loan
4 company or title insurance company specified by the builder to
5 obtain a residential mortgage loan or title insurance for the
6 purchase of a new residence from the builder.

7 Sec. 113.003. CIVIL ACTION. (a) A person who is offered or
8 provided a benefit by a builder in violation of Section 113.002 may
9 bring an action against the builder for:

10 (1) any actual damages arising from the violation; and
11 (2) exemplary damages in an amount of not less than
12 \$10,000.

13 (b) Notwithstanding Section 41.004(a), Civil Practice and
14 Remedies Code, a court shall award exemplary damages under
15 Subsection (a)(2) to a prevailing party irrespective of whether the
16 party is awarded actual damages.

17 (c) If the person bringing an action under this section
18 prevails, the court may award the person reasonable attorney's fees
19 and court costs.

20 SECTION 2. Chapter 113, Business & Commerce Code, as added
21 by this Act, applies only to a contract for the purchase of a new
22 residence entered into on or after the effective date of this Act.
23 A contract for the purchase of a new residence entered into before
24 the effective date of this Act is governed by the law in effect on
25 the date the contract is entered into, and the former law is
26 continued in effect for that purpose.

27 SECTION 3. This Act takes effect September 1, 2017.